



COUNTY OF LOS ANGELES

FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE
LOS ANGELES, CALIFORNIA 90063-3294
(323) 881-2401

DARYL L. OSBY
FIRE CHIEF
FORESTER & FIRE WARDEN

May 24, 2016

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**ORDINANCE AMENDING TITLE 12 OF THE LOS ANGELES COUNTY CODE ANNUAL FEES
FOR HAZARDOUS WASTE GENERATOR/TIERED PERMITTING, HAZARDOUS MATERIALS
HANDLER, ABOVEGROUND PETROLEUM STORAGE TANK, AND CALIFORNIA
ACCIDENTAL RELEASE PREVENTION PROGRAM PERMITS FOR FISCAL YEAR 2016-17
(ALL DISTRICTS) (3 VOTES)**

SUBJECT

The Consolidated Fire Protection District of Los Angeles County (District) is requesting approval to adjust the annual fees for Hazardous Waste Generator/Tiered Permitting, Hazardous Materials Handler, Aboveground Petroleum Storage Tank (APST), California Accidental Release Prevention (Cal-ARP) Programs and cost recovery hourly rates for Emergency Operations and Site Mitigation for Fiscal Year 2016-17.

**IT IS RECOMMENDED THAT THE BOARD ACTING AS THE GOVERNING BODY OF THE
CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY AFTER THE
PUBLIC HEARING:**

1. Approve and introduce an ordinance amending the annual fees for Hazardous Waste Generator/Tiered Permitting, Hazardous Materials Handler, APST, Cal-ARP Programs and cost recovery hourly rates for Emergency Operations and Site Mitigation, and adding a new service fee for California Environmental Reporting System (CERS) for Fiscal Year 2016-17 as shown on the attached fee schedule developed in accordance with the annual adjustment provisions of the County Code, as delineated in Sections 12.52.070, 12.56.070, 12.60.080, and 12.64.070, and approved by the Auditor-Controller.

2. Find that the adjustment of the annual fees adopted for the purpose of meeting operational expenses is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 21080(b)(8) of the Public Resources Code and Section 15273 of Title 14 of the California Code of Regulations (the State CEQA Guidelines).

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

FEE ADJUSTMENT

The annual fee adjustments established in accordance with provisions in the County Code will accomplish the following:

1. Allow Health Hazardous Materials Division (HHMD) to incorporate all the increases in salaries, benefits and overhead expenses that occurred in the past six years. These increases will allow HHMD to close the gap between our costs of operation and revenues.
2. Promote full cost recovery for the Cal-ARP, Hazardous Materials Handler, APST, and Hazardous Waste Generator/Tiered Permitting Programs that includes Investigation, Site Mitigation, Emergency Operations and administrative services.
3. Facilitate the single fee billing process mandated by the Unified Program by establishing fair and equitable fees to be billed in Fiscal Year 2016-17.

The District implements the Hazardous Waste Generator/Tiered Permitting, Hazardous Materials Handler, APST, and the Cal-ARP Programs under the auspices of the Unified Program. State law and County Code allow for the recovery of the necessary and reasonable costs to administer these programs. Your Honorable Board established annual fees and adjustment provisions for each of these programs to recover the costs of implementation. Cost recovery hourly rates were also established for emergency responses and site mitigation oversight.

The annual adjustment provisions established in the County Code utilizes a new fee methodology that was originally established by your Board in early 1996. The proposed adjustments incorporate changes in program costs that result from changes in salaries, employee benefits and overhead rates, and the number of regulated facilities falling within each fee category. Similarly, annual adjustments to cost recovery rates reflect changes in Departmental costs to administer those services.

ORDINANCE CHANGES

The Ordinance amendments will involve changes in the fee amounts for all programs implemented by the District. A new service fee of \$100.00 will be charged to a facility owner who requests the Los Angeles County Certified Unified Program Agencies (LACoCUPA) to enter the required hazardous materials information into the State database known as California Environmental Reporting System (CERS). Written permission will be required from the business owner authorizing the LACoCUPA to create the account and enter the required information. In addition, a new lower fee category will be created in the Hazardous Waste Generator fees.

Implementation of Strategic Plan Goals

Fiscal Responsibility: Approval of the recommended actions is consistent with the County's Strategic Goals in the areas of operational Effectiveness/Fiscal Sustainability (Goal 1) through the recovery of implementation costs for all regulatory programs administered by the District. The fees allocate costs in a fair and equitable manner to the regulated community and promote compliance from every business subject to program requirements. Adoption will also facilitate the billing process for the single fee system mandated by the Unified Program and Integrated Services Delivery (Goal 3) by improving public health and safety through the uniform application of regulatory requirements. Facilities that are operating without inspection oversight and not in compliance with regulatory requirements pose a risk to the community by handling hazardous materials improperly.

FISCAL IMPACT/FINANCING

Fees are apportioned in accordance with program costs to ensure recovery of projected HHMD operating costs. Current program costs are offset by a combination of fees and direct cost recovery billing for specific services. The proposed revisions in annual fees for the Hazardous Waste Generator/Tiered Permitting, Hazardous Materials Handler, APST, and Cal-ARP Programs will allow recovery of the necessary and reasonable costs to implement the programs.

There is no impact to net County cost.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The fee revisions will be effective in all areas under the jurisdiction of the LACoCUPA for Fiscal Year 2016-17. Invoices for these facilities will be generated and mailed during the fiscal year. The cities of Los Angeles and Santa Monica will generate fee invoices in July 2016 for Fiscal Year 2016-17 for the Hazardous Waste Generator/Tiered Permitting Program and Orange County will generate annual fee invoices in June 2016 for Fiscal Year 2016-17 for the Hazardous Materials Handler and Cal-ARP Program facilities in the City of La Habra. These agencies are awaiting any changes in our fee schedule.

California Health and Safety Code (H&SC), Sections 25404.5(a)(2) and (3), grant authorization to the governing body of the local Certified Unified Program Agencies (CUPA) to establish fees to recover the necessary and reasonable program costs. The County Auditor-Controller has reviewed and approved the cost basis and fee adjustments.

This request for approval of the revised fees is made after compliance with all public notification and hearing requirements as specified in Sections 6062(a) and 66018 of the Government Code. Proposed ordinance language changes have been approved as to form by County Counsel.

ENVIRONMENTAL DOCUMENTATION

The annual adjustments are exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(8) and Section 15273 of the CEQA Guidelines because they involve fees to recover operating costs.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

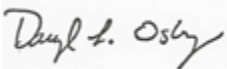
The approval of the annual fee adjustments for the Hazardous Waste Generator/Tiered Permitting, Hazardous Materials Handler, APST, Cal-ARP Programs and for the cost recovery programs will serve to establish the reasonable and necessary fees for Fiscal Year 2016-17, facilitate the fiscal year billing process mandated by the Unified Program, and assure full recovery of program implementation costs. The annual adjustments fairly allocate changes in program costs to regulated facilities while maintaining the integrity of the original fee methodologies.

CONCLUSION

Upon approval by the Board of Supervisors, please instruct the Executive Officer to return the adopted stamped copy of the letter and attachments to the following office:

Consolidated Fire Protection District of Los Angeles County
Health Hazardous Materials Division
5825 Rickenbacker Road
Commerce, CA 90040
Attention: William Jones, Chief

Respectfully submitted,



DARYL L. OSBY
FIRE CHIEF, FORESTER & FIRE WARDEN

DLO:es

Enclosures

c: Chief Executive Officer
Auditor-Controller
County Counsel
Executive Officer, Board of Supervisors



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

MARY C. WICKHAM
County Counsel

May 2, 2016

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Daryl Osby, Fire Chief
Los Angeles County Fire Department
1320 North Eastern Avenue
Los Angeles, California 90063

**Re: Revised Ordinance Amending Various Sections of Title 12
of the Los Angeles County Fire Code and to Add
Section 12.64.062 to Add a Service Fee for Environmental
Reporting System**


Dear Chief Osby:

As you requested, enclosed are the analysis and revised ordinance amending Title 12 – Environmental Protection of the Los Angeles County Code to revise fees for hazardous materials, hazardous waste, site mitigation, emergency response cost recovery, and the operators of aboveground tank facilities. This ordinance also adds Section 12.64.062 to add service fees for submittals to the California Environmental Reporting System.

The analysis and ordinance may be presented to the Board of Supervisors for its consideration at a noticed public hearing.

Very truly yours,

MARY C. WICKHAM
County Counsel

By 
SCOTT KUHN
Principal Deputy County Counsel
Property Division

SK:ll
Enclosures

ANALYSIS

This ordinance amends Title 12 – Environmental Protection of the Los Angeles County Code to revise fees for hazardous materials, hazardous waste, site mitigation, emergency response cost recovery, and the operators of aboveground tank facilities.

This ordinance also adds Section 12.64.062 – Service Fee for the Submittal of California Environmental Reporting System (CERS) Requirements to add service fees for submittals to CERS.

MARY C. WICKHAM
County Counsel

By



SCOTT KUHN
Principal Deputy County Counsel
Property Division

SK:ll

Requested: 3-22-16

Revised: 4-28-16

ORDINANCE NO. _____

An ordinance amending Title 12 – Environmental Protection of the Los Angeles County Code to revise fees for hazardous materials, hazardous waste, site mitigation, emergency response cost recovery, and the operators of aboveground tank facilities. In addition, this ordinance adds Section 12.64.062 – Service Fee for the Submittal of California Environmental Reporting System (CERS) Requirements to add service fees for submittals to CERS.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 12.52.070 is hereby amended to read as follows:

12.52.070 Fees to be pPaid by hHazardous wWaste gGenerators.

A. Beginning with the 2010~~6~~-2014~~7~~ fiscal year, the annual fee for the issuance of a unified program facility permit for the hazardous waste program element required to be paid to the Forester and Fire Warden by every person, business, or business concern generating or handling a hazardous or extremely hazardous waste shall be as follows:

Fee Group	Number of Employees	Annual Fee
<u>1</u>	<u>0 to 2</u>	<u>\$512.00</u>
12	<u>3 to 5</u>	590 <u>746.00</u>
23	6 to 19	828 <u>1,066.00</u>
34	20 to 100	1,131 <u>1,439.00</u>
45	101 to 500	1,644 <u>2,132.00</u>
56	501 or more	2,815 <u>3,624.00</u>

Exception:

Every person, business, or business concern generating or handling a hazardous waste which is hazardous solely due to the presence of silver and which generates no other hazardous wastes shall be charged a fee equal to one-half the amount of the Fee Group ~~42~~ fee. Beginning with the 201~~06~~-201~~47~~ fiscal year, this fee shall be \$29~~53~~73.00.

B. Beginning with the 201~~06~~-201~~47~~ fiscal year, the annual fee required to be paid to the Forester and Fire Warden by every person, business, or business concern that is a hazardous waste generator conducting treatment of hazardous waste under the Act shall be based on the highest tier of permit required in descending order as follows:

Permit Tier	Annual Fee
(1) Permit by Rule (PBR)	\$1,30 81 <u>680</u> .00
(2) Conditional Authorization (CA)	91 61 <u>159</u> .00
(3) Conditional Exemption (CE)	13 91 <u>74</u> .00

C. Every hazardous waste generator that has been issued a notice of violation as specified in Section 12.52.015.P of this chapter and has failed to correct the violation(s) or deviation(s) by the correction date as set forth in the notice of violation may be charged a reinspection fee for each reinspection required to verify compliance with the notice of violation. Beginning with fiscal year 201~~06~~-201~~47~~, the reinspection fee shall be \$30~~44~~409.00.

D. Beginning with the 201~~06~~-201~~47~~ fiscal year, the schedule of fees contained in this section may be adjusted annually by the following procedures:

1. Hazardous Waste Generator Fees. Hazardous waste generator fees shall be determined based on the annualized cost to the fForester and fFire wWarden to administer the hazardous waste generator program, where annualized cost is defined as the annual salaries, employee benefits, and overhead for the personnel assigned to administer and implement the hazardous waste generator program calculated from rates contained in the fForester and fFire wWarden's rate package, as approved by the County aAuditor-eController. The annualized cost shall be reallocated among hazardous waste generators based upon the number of hazardous waste generators in each fee group.

2. Tiered Permit Program Fees. Fees for the tiered permit program shall be determined based on the annualized cost to the fForester and fFire wWarden to administer the tiered permit program, where annualized cost is defined as the annual salaries, employee benefits, and overhead for the personnel assigned to administer and implement the tiered permit program calculated from rates contained in the fForester and fFire wWarden's rate package, as approved by the County aAuditor-eController. The annualized cost shall be reallocated among hazardous waste generators conducting treatment of hazardous waste under the tiered permit program based upon the number of facilities falling within each fee group.

3. Reinspection Fees. Reinspection fees shall be determined based on the annualized cost to the fForester and fFire wWarden to conduct reinspections of hazardous waste generators, where annualized cost is defined as the annual salaries, employee benefits, and overhead for the personnel assigned to conduct reinspections

of hazardous waste generators calculated from rates contained in the ~~f~~Forester and ~~f~~Fire wWarden's rate package, as approved by the County aAuditor-~~e~~Controller, divided by the annual number of reinspections conducted.

SECTION 2. Section 12.56.020 is hereby amended to read as follows:

12.56.020 Emergency ~~r~~Response ~~e~~Cost ~~r~~Recovery.

A. Those costs of an emergency response incurred by the ~~f~~Forester and ~~f~~Fire wWarden, including costs of any deputy health officer, public officer and related personnel, necessary to protect the public from a threat to health and safety by actions to confine, prevent, or mitigate the release, escape, burning, or threatened release of a hazardous material, are a charge against any person whose intentional or negligent action causes the incident, if one or more of the following occurs:

...

B. Any person whose intentional or negligent action caused the incident, as specified in Section 12.56.020A, shall be assessed an administrative charge for the response and additional emergency response charges, based upon hourly personnel costs, as approved by the County Auditor-Controller, to recover the costs incurred by the Forester and Fire Warden to protect the public from threats to public health and safety and any actions to confine, prevent, or mitigate the release, escape, burning, or threatened release of a hazardous material. Beginning in fiscal year 20106-20147, the administrative charge shall be ~~\$466~~604.00 and the personnel hourly rates shall be ~~\$198.35~~164.00.

C. All payments made pursuant to this chapter shall be collected and accounted for in accordance with the requirements of the ~~e~~County ~~t~~Treasurer-~~t~~Tax ~~e~~Collector and the ~~e~~County ~~a~~Auditor-~~e~~Controller.

SECTION 3. Section 12.60.050 is hereby amended to read as follows:

12.60.050 Site ~~m~~Mitigation ~~e~~Oversight ~~f~~Fees.

A. Fees for site mitigation and oversight will be assessed to the responsible party (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), section 106) for a site which requires oversight by the ~~h~~Health ~~h~~Hazardous ~~m~~Materials ~~d~~Division's site mitigation unit, or the person requesting oversight by the ~~h~~Health ~~h~~Hazardous ~~m~~Materials ~~d~~Division's site mitigation unit. These fees shall be based upon the hourly personnel costs incurred by the ~~f~~Forester and ~~f~~Fire ~~w~~Warden to recover the costs of oversight, as approved by the ~~e~~County ~~a~~Auditor-~~e~~Controller.

B. The responsible party or person requesting oversight shall be assessed an initial oversight fee to recover the costs of the Forester and Fire Warden to initially review and analyze the site, submitted site assessment reports, site history, and determine site regulatory requirements, site priority, and lead agency status. This fee shall be based upon average hourly personnel costs incurred by the Forester and Fire Warden to conduct this initial review, as approved by the County Auditor-Controller. Beginning in fiscal year 2010~~6~~-2011~~4~~7, this fee shall be \$1,974~~2,212~~2,212.00 for each site accepted by the Forester and Fire Warden.

C. The responsible party or the person requesting oversight by the Health Hazardous Materials Division's site mitigation unit shall be required to pay oversight fees, based upon hourly personnel costs incurred by the Forester and Fire Warden to review and oversee site assessment and remediation activities over and above the initial review fee in Section 12.60.050 B, as approved by the County Auditor-Controller. Beginning in fiscal year 20106-20147, the hourly rate shall be ~~\$158.27~~156.00.

SECTION 4. Section 12.64.040 is hereby amended to read as follows:

12.64.040 Annual ~~f~~ees to be ~~p~~aid by ~~h~~andlers of ~~h~~azardous ~~m~~aterials.

Beginning with the 20106-20147 fiscal year, the annual fee required to be paid to the Forester and Fire Warden by every handler of hazardous materials for the administration and enforcement of the provisions of the Act shall be as follows:

Fee Group	Total Quantity of Hazardous Materials Handled at Any One Time During the Reporting Year	Annual Fee
I	Small Quantity Handler	\$226 <u>270</u> .00
	55—500 gallons or	
	500—5,000 pounds or	
	TQ or greater quantity of a RS if less than 500 pounds	
	And no more than one hazardous material handled	
II	Minor Handler	328 <u>391</u> .00
	55—500 gallons or	
	500—5,000 pounds or	
	200—2,000 cubic feet or	
	TQ or greater quantity of a RS if less than 500 pounds	
	And more than one hazardous material handled	
III	Moderate Handler	420 <u>500</u> .00

Fee Group	Total Quantity of Hazardous Materials Handled at Any One Time During the Reporting Year	Annual Fee
	501—2,750 gallons or	
	5,001—25,000 pounds or	
	2,001—10,000 cubic feet	
IV	Major Handler	581,692.00
	2,751—50,000 gallons or	
	25,001—500,000 pounds or	
	10,001—200,000 cubic feet	
V	Major Handler—Large Volume	829,985.00
	50,001 gallons and over or	
	500,001 pounds and over or	
	200,001 cubic feet and over	
VI	Major Handler—Complex	1,2761,521.00
	175,001 gallons and over or	
	700,001 pounds and over or	
	250,001 cubic feet and over or	
	A total quantity of two or more hazardous materials when expressed in or converted to pounds that equals 500,000 pounds or greater;	
	AND	
	Which is either a refinery, chemical plant, distillery, bulk plant, or terminal as defined herein.	
VII	Exempt Handler less than 55 gallons and less than 500 pounds and less than 200 cubic feet and, for RS, less than TQ quantity of RS	No Fee

...

SECTION 5. Section 12.64.050 is hereby amended to read as follows:

12.64.050 Additional fFees—Regulated sSubstances.

...

B. Beginning with the 20106-20117 fiscal year, the annual fee for the issuance of a unified program facility permit for a stationary source, required to be paid to the Forester and Fire Warden by every person, business, or business concern handling, storing, or using a regulated substance above threshold quantities (RS fee) shall be as follows:

Fee Group	Risk Unit	Annual Fee
I	>0 and <5	\$463 <u>569</u> .00
II	=>5 and <15	8139 <u>98</u> .00
III	=>15 and <50	1,4601,793.00
IV	=>50 and <100	2,7933,430.00
V	=>100 and <250	4,7215,797.00
VI	=>250 and <500	7,6149,350.00
VII	=>500 and <1,000	13,78616,928.00
VIII	=>1,000 and <3,000	21,05725,857.00
IX	=>3,000 and <10,000	28,10034,505.00
X	=>10,000	35,12543,131.00

...

C. Any third party technical review required by the fForester and fFire wWarden shall be a cost paid by the stationary source.

D. RS fees may be adjusted annually by the Board of Supervisors to recover the annualized cost to the fForester and fFire wWarden to administer the California Accidental Release Prevention program, where the annualized cost is defined as the annual salaries, employee benefits, and overhead for the personnel assigned to administer and implement the California Accidental Release Prevention program

calculated from rates contained in the fForester and fFire wWarden's rate package, as approved by the County aAuditor-eController.

Exemption:

Any person, business, or business concern which conducts, exclusively for charitable purposes, an activity for which a fee is required under this chapter and from which no person benefits through the distribution of profits, payment of excessive charges or compensation, or the more advantageous pursuit of their business or profession shall not be charged any fee. Facts supporting entitlement to such exemption from a fee requirement shall be shown by affidavit filed with the fForester and fFire wWarden.

Any person, business, or business concern which conducts an activity for which a fee is required to be paid by this chapter shall be deemed to qualify for a fee exemption if it complies with section 214 of the California Revenue and Taxation Code.

SECTION 6. Section 12.64.062 is hereby added to read as follows:

12.64.062 Service Fee for the Submittal of California

Environmental Reporting System (CERS) Requirements.

A flat service fee of \$100.00 will be charged to a small or minor handler who requests the Health Hazardous Materials Division or Forester and Fire Warden to assist in preparing and entering required information into the California Environmental Reporting System (CERS). The handler requesting such service shall provide written consent authorizing the Health Hazardous Materials Division or Forester and Fire Warden to create a CERS account for the handler and to submit the facility information,

hazardous materials inventory, training plan, and contingency plan on the handler's behalf.

SECTION 7. Section 12.70.050 is hereby amended to read as follows:

**12.70.050 Annual fFees to be pPaid by eOperators of
aAboveground tTank fFacility.**

Beginning with the 2016-2017 fiscal year, the annual fee required to be paid to the Forester and Fire Warden by the operator of each tank facility for the administration and enforcement of the provisions of the Act shall be as follows:

Fee Group	Total Quantity of Petroleum in Aboveground Storage Tanks at Each Tank Facility During the Reporting Year	Annual Fee for Each Tank Facility
I	Less than 10,000 gallons	\$154 <u>197</u> .00
II	10,000 to 100,000 gallons	\$492 <u>632</u> .00
III	100,001 to 1,000,000 gallons	\$738 <u>948</u> .00
IV	1,000,001 to 10,000,000 gallons	\$984 <u>1,264</u> .00
V	10,000,001 to 100,000,000 gallons	\$5,377 <u>5,725</u> .00
VI	More than 100,000,000 gallons	\$11,238 <u>11,944</u> .00
VII	Exempt Handler Less than 1,320 gallons	No Fee

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